of days now in an effort to try to get a focus back on this prescription drug issue which seems to involve a lot of finger pointing and a lot of partisan bickering. As part of that effort, I have been urging seniors to send in copies of their prescription drug bills. Just as this poster says, the senior can send in a copy of the prescription drug bill, and write to each of us in the Senate here in Washington, DC.

I have been actually coming to the floor and reading some of these bills for a number of weeks. Just in the last couple of days, I heard from a woman in Portland—she is 84; she has diabetes and a heart condition. She has only Social Security to support herself. She is spending over a third of that Social Security check every month on prescription drugs. She is now at a point where it is hard to pay the taxes on her home.

I heard from another gentleman recently. He has a monthly Social Security check of $633. The cost of his drugs is $644 a month. He is spending more for his prescription drugs each month than he is actually getting in income. So every month this senior is having to choose between food and fuel and fuel and health care. So as a result of this effort to get from seniors copies of their prescription drug bills, we are hearing about the kind of suffering that seniors are enduring around this country.

Senator OLYMPIA SNOWE and I have a bipartisan prescription drug bill. It would cover all senior citizens on an ability-to-pay basis. More than 50 Senators of both political parties are now on record as supporting a funding plan for this legislation. I know other Senators have approaches they would like to try. What is important is that we get a bipartisan focus on this issue. Every public opinion poll shows seniors and families across this country are having difficulty making ends meet when it comes to the high cost of essential health care services.

Our approach is marketplace oriented. There are not price controls. It is not one size fits all. The Snowe-Wyden legislation is called SPICE, the Senior Prescription Insurance Coverage Equity Act. It is designed to deal with the double whammy our seniors are facing on their prescriptions. First, Medicare does not cover the drugs they need and, second, when a senior citizen walks into a drug store, in effect that senior is subsidizing the big buyers, the health maintenance organizations, and other health plans that are able to get discounts.

So seniors have this double whammy now in front of them when it comes to their prescriptions. I hope more will, as these posters indicate, send us copies of their prescription drug bills. I think on the basis of these bills that we are getting from seniors across the country—each of us in the Senate here in Washington, DC—we can bring about bipartisan support to actually respond to the needs of the seniors.

Mr. BYRD. Mr. President, may we have order in the Senate? The Senator is addressing the Senate. May we have order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Oregon has the floor.

Mr. BYRD. Mr. President, we still do not have order. May we have order in the Senate? You may have to rap that gavel to be heard.

Mr. WYDEN. Thank you, Mr. President. The Senator from West Virginia has been a great ally of the Nation's older people, and I very much appreciate his thoughtfulness. I believe my time is almost up.

I intend to keep coming to the floor of the Senate to read from these bills that we are getting from the Nation's senior citizens. We have 54 Members of the Senate already on record as having voted for a specific plan to fund a prescription drug benefit for older people. We can do this in a bipartisan way. We have the chairman of the Aging Committee, Senator GRASSLEY, who has led our efforts on the committee on so many issues.

I am going to keep coming back to the floor and read from these bills. Again and again, we are hearing from seniors who cannot afford important drugs such as their diabetes medicines.

I will wrap up by saying, when I am asked the question whether our Nation can afford prescription drug coverage, my response is we cannot afford not to cover prescriptions.

A lot of these drugs help seniors stay healthy, keep their blood pressure down, or help to reduce cholesterol. I have cited previously an anticoagulant drug. It costs senior citizens about $1,000 a year. With those kinds of medicines, we can help prevent strokes that involve expenses of more than $100,000.

I am going to keep coming back to this floor to focus on the needs of seniors. We ought to do this in a bipartisan way. That is what is behind the Snowe-Wyden legislation. A lot of our colleagues have other ideas for addressing this issue.

As this poster says, I hope seniors will continue to send copies of their prescription drug bills to us in the Senate, Washington, DC.

I will keep coming to this floor until we can get the bipartisan action we need that provides real relief for the Nation's older people.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senator from Wisconsin, Mr. FEINGOLD, now be recognized to offer his amendment No. 2748, and he be recognized for up to 12 minutes for general debate on the amendment. I further ask consent that the amendment be laid aside, with a vote occurring on or in relation to the amendment at 5 o'clock, with no second-degree amendment in order prior to the vote. I further ask consent that votes occur on or in relation to the following two amendments in sequence at 5 o'clock, with no second-degree amendments in order prior to the votes, and there be 4 minutes for explanation prior to each vote. Those amendments are No. 2521 offered by Senator DURBIN and No. 2754 offered by Senator DODD. I further ask consent that following the sequencing of the amendments, Senator SCHUMER then be recognized to call up an amendment and to speak for up to 2 minutes and the amendment then be laid aside.

I further ask unanimous consent that the time between now and 5 o'clock be equally divided in the usual form. I further ask consent when the Senate resumes consideration of S. 625 tomorrow, I be recognized to call up our amendment No. 2771 on which there will be a 4-hour time limit.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, if I could ask my friend, the manager of this bill, it is my understanding that the time between now and 5 o'clock would be evenly divided between the majority and minority?

Mr. GRASSLEY. Yes.

Mr. REID. During that period of time, Senators DODD and DURBIN would be able to speak on those two amendments?

Mr. GRASSLEY. That is right.

Mr. REID. Also, during that same period of time, it is my understanding—for example, Senator SCHUMER wanted to offer amendments during that period of time. He would be allowed to do that?

Mr. GRASSLEY. We have it stated here.

Mr. REID. After the votes.

Mr. GRASSLEY. After the votes.

Mr. REID. We want Senator SCHUMER to use some of the time of Senator DODD and Senator DURBIN prior to the 5 o'clock vote.

Mr. GRASSLEY. To answer your question with a further question, this would be to call up, spend a little bit of time explaining them, and lay them aside?

Mr. REID. That is right.

Further, Mr. President, I ask my friend from Iowa, Senator FEINGOLD, I am told, was not expecting a vote tonight.

Is that true?

Mr. FEINGOLD. That is correct.

Mr. REID. He was not expecting a vote on his amendment tonight. So unless there is some reason the majority believes a vote should go forward on that, Senator FEINGOLD would prefer

not to go forward with the vote tonight. So we would still have the two votes on the Durbin and Dodd amendments at 5 o'clock.

Mr. GRASSLEY. We will modify the request accordingly.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Reserving the right to object, just so I understand it correctly, the two amendments that have been debated are the Durbin and Dodd amendments. We have debated those two amendments. This unanimous consent request, Mr. President, if I understand it correctly, would allow us some additional time to debate those two amendments between now and 5 o'clock, but the only amendments to be voted on at 5 o'clock are the Durbin and Dodd amendments?

Mr. GRASSLEY. Yes.

Mr. DODD. However, if other amendments were to be debated or raised for purposes of debate, and then laid aside, the manager of the bill is suggesting that would be allowable in the unanimous consent request?

Mr. GRASSLEY. We are suggesting for the Schumer amendment, according to the agreement, because the other side of the aisle had suggested in the preliminary negotiations that we had on this—negotiations which fell through—that it was very necessary to have a lot of time to devote to debate these amendments on which we had not had votes.

Mr. DODD. Right.

Mr. GRASSLEY. And we had not had debate on them either. So Members on that side of the aisle would be secure that they had an opportunity to thoroughly debate their amendments, that is why we reserved this time.

Mr. DODD. Further reserving the right to object.

Mr. REID. If I could say to my friend from Connecticut, we also have a subsequent unanimous consent request that we expect to propose, once we get this done, which would allow the Senator from Connecticut to offer an amendment that we talked about earlier today.

Mr. SCHUMER. Reserving the right to object, I would like to clarify with either the Senator from Iowa or the ranking minority whip, I would be allowed to offer my amendments in the next hour and a half?

Mr. GRASSLEY. Yes.

Mr. SCHUMER. And would be allowed to debate them, if time permitted, given how much time the Senators from Connecticut and Illinois took on their amendments; is that correct?

Mr. GRASSLEY. It says here you shall have up to 2 minutes on the amendment, then lay it aside.

Mr. REID. I say to my friend from Iowa, that was contemplating his offering them tonight after the 5 o'clock votes. I do not know if we are going to be able to use all of our time, which is approximately 75 minutes, on these two amendments. It would leave Senator SCHUMER time to offer his amendments and talk under the minority's allotted time.

Mr. GRASSLEY. I think it would be fair, for the purpose of our responding to the desires of your side to have time for your folks who are offering the amendments to have adequate time, that we not let the Senator from New York go beyond what we have agreed to, or then I am going to be subject to criticism at 5 o'clock that somebody on your side did not get enough time to offer their amendment.

Mr. DODD. That is good. Let's go.

Mr. SCHUMER. So just clarifying, in other words, if the Senator from Connecticut and if the Senator from Illinois have extra time, we could debate the amendments that I would now offer; is that correct?

Mr. DODD. Fine.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Reserving the right to object, will this mean we will have an opportunity this afternoon for debate by those who would be opposed to those amendments?

Mr. GRASSLEY. Yes. We will have equal time on our side for this Senator to allocate to you.

Mr. SESSIONS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Mr. SCHUMER. Those are the amendments I had asked for, not just one?

Mr. GRASSLEY. Yes. Those are the amendments you spoke to me about this morning, banking amendments?

Mr. SCHUMER. Correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, another request. After the 5 p.m. votes, on behalf of the prime sponsor of the pending second-degree amendment, No. 2518, I ask unanimous consent to withdraw the amendment in order for the Senator from Texas, Mrs. HUTCHISON, to offer a second-degree amendment.

Mr. REID. If I may interrupt my friend from Iowa, we just received a phone call that we are going to have to wait a minute on that. So let's get started on the rest of it.

Mr. GRASSLEY. OK. I will withhold and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 2748

(Purpose: To provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed, and for other purposes)

Mr. FEINGOLD. Mr. President, in a few minutes I will offer amendment No. 2748. This amendment concerns section 311 of the bill, which provides a complete exemption from the automatic stay for eviction of proceedings.

The PRESIDING OFFICER. The Senator from Wisconsin is advised this requires the Senator to offer his amendment first and then begin debate.

Mr. FEINGOLD. Mr. President, I would be happy to do that.

I ask unanimous consent to set aside the pending amendments so I may call up amendment No. 2748.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2748.

Mr. FEINGOLD. I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, line 15, strike ''; and'' and insert a semicolon.

Beginning on page 108, strike line 18 and all that follows through page 109, line 7, and insert the following:

''(23) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property—

''(A) on which the debtor resides as a tenant under a rental agreement; and

''(B) with respect to which—

''(i) the debtor fails to make a rent payment that initially becomes due under the rental agreement or applicable State law after the date of filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification to the debtor; or

''(ii) the debtor's lease has expired according to its terms and the lessor intends to personally occupy that property, if the lessor files with the court a certification of such facts and serves a copy of the certification to the debtor;

''(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property, if during the 1-year period preceding the filing of the petition, the debtor—

''(A) commenced another case under this title; and

''(B) failed to make a rent payment that initially became due under an applicable rental agreement or State law after the date of filing of the petition for that other case; or

''(25) under subsection (a)(3), of an eviction action based on endangerment of property or the use of an illegal drug, if the lessor files with the court a certification that the debtor has endangered property or used an illegal drug and serves a copy of the certification to the debtor.''; and

(4) by adding at the end of the flush material at the end of the subsection the following: ''With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in that paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under that paragraph, unless the debtor takes such action as may be necessary to address the subject of the certification or the court orders that the exception to the automatic stay shall not become effective or provides for a later date of applicability.''.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, my amendment would limit the reach of section 311 of the bill, which I believe is far too broad. I think it is too harsh a solution for the limited abuse that its sponsors say they are trying to address.

Since the Bankruptcy Code was enacted, the automatic stay that becomes effective upon the filing of a bankruptcy petition has always prohibited a landlord from evicting a tenant unless the landlord obtains permission from the bankruptcy court—what is called ''relief from the stay.'' The stay serves several purposes. In chapter 13, a tenant has a right to assume a lease and to cure a default by paying the accumulated back rent. In chapter 7, the stay was intended to provide the debtor a short ''breathing spell.'' Breathing room is especially helpful to debtors who want to remain in their homes. In many cases, when a chapter 7 debtor is relieved of other debts, he or she can use this brief period to catch up on the rent and avoid eviction.

The right to avoid eviction by filing bankruptcy is obviously of great importance to tenants who at the very point when they have undertaken the difficult and draining bankruptcy experience would otherwise suffer the additional hardships of moving and having to find new housing. And then you have tenants in rent-controlled or rent-stabilized apartments, who lose valuable property rights if they are evicted. Of course, an eviction would normally doom any hope of the tenant completing a chapter 13 repayment plan or getting much benefit from the fresh start bankruptcy is intended to provide.

I understand that the applicability of the automatic stay to eviction proceedings has come under attack because of abuses. This is primarily due to the practice of debtors in a few cities, especially Los Angeles, of filing bankruptcy cases, sometimes repeatedly, solely for the purpose of delaying eviction and, in effect, ''living rent free.'' these debtors are often aided by nonattorney bankruptcy petition preparers and file pro se. I have seen the advertisements by some of these unscrupulous individuals, and I deplore this kind of abuse as much as anyone does.

But to address this limited problem of abuse, what S. 625 does is totally eliminate the automatic stay for tenants.

In fact, the bill contains an even more sweeping provision than the language adopted in the conference report last year and contained in the House bill this year.

The problem of abusive bankruptcy filings by tenants in a few jurisdictions can be addressed by more limited, carefully targeted provisions. First, we can cut a whole area of abuse by simply lifting the stay in cases where there are repeat bankruptcy filings. My amendment includes that. These abuses inspired this amendment and they also point to its underlying goal: to eliminate the possibility that debtors can use the bankruptcy law to live ''recent free'' after they file. I agree that we should not let tenants take advantage of the bankruptcy laws to live ''rent free.'' But if a debtor is able to put together enough money to pay rent during the pendency of the bankruptcy, that goal is satisfied. Certainly, the landlord is not losing anything financially by allowing the tenant to stay.

If the landlord again begins collecting rent on the apartment after a bankruptcy filing, it is in the same position as it would be if it evicted the debtor and began collecting rent from a new tenant. So under my amendment, relief from the automatic stay is only available if the debtor fails to pay rent that comes due after the bankruptcy filing.

I also believe that it is important to keep the bankruptcy court involved and aware of the lifting of the stay as it is under current law when a landlord applies for relief from the stay. There does seems to be good reason, however, to provide expedited relief from the stay if the debtor does not pay rent while the proceeding is pending.

So my amendment creates a simple and straightforward process. Once a debtor misses a rent payment after filing for bankruptcy, the landlord can immediately file a certification with the court that the payment has not been received. It must also serve a copy of the certification on the debtor, to make sure that the debtor is aware that the landlord intends to seek to have the stay lifted. After that certification is filed and served, the debtor has 15 days to cure the default. The exemption from the stay will become effective 15 days after the certification is filed and served, unless the court orders otherwise. And one reason for the court to order otherwise is that the rent has been paid.

This certification and expedited exemption process also applies to evictions based on property damage or illegal drug use. By giving discretion to the court to delay or stop the eviction proceeding from going forward, the amendment protects against these provisions being abused by landlords. We don't want landlords alleging property damage for the most minor scratches on the wall in order to take advantage of these expedited procedures.

The expedited procedures also apply to one other situation, which the Senator from Alabama raised during our consideration of this amendment in the Judiciary Committee. The Senator from Alabama sketched out a hypothetical situation where a landlord who has rented his or her own house or apartment to someone wants to move back in after the expiration of the lease. Under the amendment that I offered in committee, the landlord could theoretically be prevented from moving back in to his or her own house if the tenant files for bankruptcy and keeps paying rent.

I think the Senator from Alabama raised a good point in committee, so I have addressed it in this amendment. Again, the underlying goal is to allow tenants the benefits of the automatic stay as long as landlords are no worse off. In the usual case of a landlord who would simply rent to someone else after an eviction, renewed and continuous payment of rent after the bankruptcy filing protects the financial interests of the landlord. But in the case sketched out by the Senator from Alabama, landlords have other rights, namely the right to reoccupy their own homes, that we need to protect as well.

So my amendment contains an additional circumstance in which a landlord can seek expedited relief from the stay—when the lease has expired according to its terms and the landlord intends to occupy the property after the eviction. Once again, the landlord must simply certify that these circumstances exist and 15 days later, the stay is lifted, unless the tenant demonstrates to the court that the certification is erroneous.

It should be remembered that this amendment does not effect the landlord's ability to seek relief from the stay under the procedures provided by current law. Expedited procedures are available for nonpayment of rent after filing for bankruptcy, for evictions based on property damage or drug use, or when a lease has expired and the landlord wishes to reoccupy the property. For all other types of evictions, the landlord may continue to pursue remedies under current law.

As in so many parts of our debate on this bill, the main issue is balance. To the extent there are abuses they should be addressed, but the solutions should be narrowly targeted so that they do not eliminate the rights of honest debtors who need the fresh start that bankruptcy is designed to provide. In this case, I truly believe that the solution is S. 625 for the problem that landlords say they are concerned about goes too far. I am not comfortable with provisions that would kick people out of their apartments even if they can pay rent during the time that they are trying to get their financial house in order. To me that is not constructive, it is punitive. It is not really helping landlords, it is just punishing people who may be trying their very best to keep their heads above water. Shame on us, if we can't see that.

I hope my colleagues will support this modest and balanced amendment.

Mr. President, I ask unanimous consent that amendment No. 2748 be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, in response to the remarks of the Senator from Wisconsin, I will not be able to support this amendment, although I do believe he has put some parts in it that

make it superior to what had originally been offered in this regard.

I will share with Members some of the reasons I believe we need to reject this amendment and why this is a classic problem with the current bankruptcy law that we need to fix. We haven't had a major reform of bankruptcy law since 1978. It is time for us to look at it to see how it is working out in the real world. Are there abusers? Are there loopholes, with clever lawyers zealously representing their clients able to utilize some of these loopholes and situations to abuse the fair workings of the bankruptcy court?

Remember, a bankruptcy reform bill sets the law for an entire court. That is the court that handles bankruptcy.

Senator GRASSLEY's bill, with this amendment involving landlord/tenant that I helped sponsor, simply clarifies existing law. It simply makes real and more effectual the existing law. The amendment offered by Mr. FEINGOLD changes the current law; it moves us in a direction that will enhance and encourage litigation and delay and undermine the rule of law as we ought to see it in the country. There are some good lawyers out there practicing bankruptcy law. That is all they do. They know how to work the system and work it well.

Under current law, if a landlord files an eviction against a tenant before the bankruptcy petition is filed by the tenant, that eviction can continue. If an eviction is filed by a landlord based on the fact that his lease has terminated—he has a 1-year lease; we are now in month 14, he files to evict the tenant; he can't just go and throw him out physically—he files a lawsuit in State court to evict the tenant, he will prevail in bankruptcy court. That is not the kind of action the bankruptcy court will permanently stay.

What is the problem? Why are we having a problem? The problem is that when a person files for bankruptcy, all litigation is stayed; there is an automatic stay. So if you file for bankruptcy in Federal court, any lawsuits filed against you in the State court system for collection of your debts, including landlord/tenant, are automatically stayed. So what happens is, the landlord has to hire an attorney, send him down to Federal bankruptcy court, at great expense to himself, to file a motion and ask for a hearing to lift the stay and to say to that bankruptcy judge: Judge, we don't need you to stay this eviction case because the person is clearly in violation of his lease; he hasn't paid his rent, and/or the lease is terminated. It is time for him to be removed from his premises. He has to argue that.

Uniformly, the courts will rule in his favor, and he can then take the matter to State court. In State court, the tenant has all the rights and privileges he has always had to defend himself against eviction. He gets a hearing in court. He just doesn't get a double hearing in Federal court and State court.

This is a great cost to the landlords who have to go through this process. It also deals with landlords who have just a few apartment complexes or maybe just one and maybe the lease is coming up and they don't want to just occupy the premises themselves. Maybe they have already executed a lease with another tenant to take over this apartment. All of a sudden they find the tenant won't leave under his lease. Then he files a petition in bankruptcy. The court stays the efforts to evict and months go by. That is the kind of problem we are having.

How does this abuse occur? We have seen advertisements and pulled them from phone books and newspapers. Here is one: ''Seven months free rent.'' It goes on to talk about how you can file bankruptcy—it has 7 calendar months here—and not be evicted for up to 7 months, even though your lease may have already expired. You have a 12-month lease, and that means you can stay there 19 months by the time you can get around to getting somebody removed from the premises, when you may have already agreed with your son, daughter, or some other possible tenant, that they can take over the property at a given time.

The Feingold amendment, as I understand it, would protect the landlord who wanted to move in himself but not from leasing it to somebody else or letting a family member take over the property.

Here is another one to a tenant organization, a flier that was passed out: ''We have more moves, when it comes to preventing your eviction, than Magic Johnson. Call us,'' the law firm says, ''and we will take care of you.'' ''Need more time to move? Stop this eviction from 1 to 6 months.''

And there are others we have seen here, quite a number of those kinds of activities. So I say to you that this is not just an imagined problem; it is very real. And still attorneys are advertising around the country, and they are disrupting legitimate landlord-tenant situations. It is an abuse.

Eventually, under the current law, when they go to bankruptcy court and ask that the stay be lifted so they can continue with their eviction, they always win—but they always lose. They win on the law eventually, but they lose because they have been delayed in taking control of their own property and because they have had to pay an extensive legal fee. This is the kind of thing that is driving people mad who are dealing with bankruptcy on a regular basis. They are coming to us in Congress and saying: JEFF, these things are not healthy; they are frustrating, and they are hurting our ability to commercially operate in an effective way.

So how often does it happen? I would like to read a report from the Los Angeles County Sheriff's Office—just in one county in America. This is what the L.A. County Sheriff's Office said. They estimate that 3,886 residents—3,886—filed for bankruptcy in 1996 alone—in 1 year, in that county—to prevent the execution of a valid court-ordered eviction notice. Think about that. You can even have won your eviction case in court, and an order has been issued to have this person evicted, his or her lease is up, and this stay in bankruptcy stops that.

It goes on to say that 7 percent of the eviction cases handled by the Los Angeles County sheriff's department are stayed as a result of bankruptcy filings. Losses are estimated at nearly $6 million per year. They advertise in many of the publications ''Live Rent Free.'' That is really what has been happening. ''More moves than Magic Johnson'' to prevent a legitimate execution of an eviction order.

Remember, we are not saying a landlord can just go remove somebody. Every State has protection for renters. They have to go to court and get a valid eviction order. Many times, they are entitled to other delays before they can be evicted. So I think that is significant.

Another matter that I think is important is the quote from a judge in the Central District of California who is concerned about these cases. He sees them very frequently. Judge Zurzolo in the Central District of California had this to say about bankruptcy and efforts to delay eviction. This is a quote from his opinion in court:

> The bankruptcy courts are flooded with chapter 7 and chapter 13 bankruptcy cases filed solely for the purpose of delaying unlawful detainer eviction. Inevitably and swiftly following the filing of these bankruptcy cases is the filing of motions for relief of stay by the landlords. They have hired a lawyer and they have to file a motion for relief of stay. These landlords are temporarily thwarted by this abuse of the bankruptcy court system.

This judge calls it an abuse of the system. These relief from stay motions are rarely contested and never lost. That is, the lawyer who filed the bankruptcy rarely even contests them, and never are they ruled against the landlord. It is never ruled against the landlord, but they are filed and delay has already occurred. He says this:

> Bankruptcy courts in our district hear dozens of these stay motions weekly, none of which involve any justiciable conflicts of fact and law.

So it is pretty clear. We have a national problem that ought to be fixed. We can fix it.

What does the current legislation, the bankruptcy reform bill, say about it? It simply says that the automatic stay is not available when an eviction proceeding has already started prior to the filing of a bankruptcy. In other words, if the eviction has started before, you don't get that stay. If an eviction proceeding is based on the fact that the lease is already terminated, you don't get a stay. Otherwise, you would have the same stay. This will stop a lot of wasted effort, a lot of unnecessary costs, a lot of frustration for tenants and those kinds of problems.

I believe this law is good public policy—the way it is written in the Grassley bankruptcy bill—because a bankruptcy court only has control over the assets of the person filing bankruptcy. A lease that has already expired, by its very definition, is not an asset. A lease that has clearly been terminated because of nonpayment of rent is not an asset of the person who is filing bankruptcy. Therefore, the bankruptcy court does not have legal power to control an asset that is not theirs; it is the landlord's. So that is why the courts always rule in favor of the landlord in these cases. The landlord may have another tenant who would want to take over, and that tenant's life may be disrupted if the landlord can't deliver the premises.

In conclusion, the changes suggested in the Feingold amendment alter current law substantially. They allow the tenant to stay in the premises on which the lease has expired and for which they have been in default for lack of payment, or other reasons. This is unacceptable, and it is not sound law. You ought not to have a law that says you can stay in the premises when the lease has expired, for Heaven's sake. This would be the Federal bankruptcy court overruling State law that says when your lease expires, you are out. If we can't have honesty in the effectuation of contracts in America, we are in sad shape. I believe this is a poor amendment and it should not be approved.

I yield the floor.

Mr. GRASSLEY. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. The Senator has 23 minutes.

Mr. GRASSLEY. Mr. President, I yield 20 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is recognized.

NOMINATION OF CAROL MOSELEY-BRAUN

Mr. HELMS. Mr. President, 4 days ago, on November 5, the Senate Foreign Relations East Asian and Pacific Affairs Subcommittee conducted its hearing on the Moseley-Braun nomination. Since it was a subcommittee meeting and a hearing, I viewed it on television. I have a long practice of giving chairmen and ranking members of our subcommittees free rein in conducting their respective hearings. So I viewed the hearing on television, as I say, and it was a sight to behold.

In fact, what it was was a political rally, lacking only a band and the distribution of free hot dogs, soda pop, and balloons. Last night, the full committee met briefly, almost informally, just outside the Chamber here, and reported the nomination to the Senate, with one dissent. I will let you guess whose dissent that was.

Before I proceed further, I express the sincere hope that the nominee, when confirmed to serve as U.S. Ambassador to New Zealand, will serve diligently, effectively, and honestly. She will be representing the United States, the country of all Americans. For the sake of our country, I pray there will be no further reports of irregularity involving her conduct. In short, I wish her well.

Before the book is closed on the scores of reports regarding the nominee's often puzzling service as a U.S. Senator, I decided a few footnotes were in order. Many citizens from many States all over this country—principally, however, from the Chicago area—have contacted me during the past few weeks. There have been expressions of puzzlement that the President of the United States decided to reverse the clearly expressed judgment of the people of Illinois in the 1998 election. Several speculated over the weekend that the Senate was about to rubber stamp the President's nomination to serve as U.S. Ambassador to New Zealand. After all, the Illinois voters have made the judgment that serious charges of ethical misconduct by Senator Moseley-Braun disqualified her from further representing them in the Senate. Now they say the same Senate is preparing to declare she is qualified to represent all Americans abroad.

I think it important, therefore, that the people of Illinois —indeed, all Americans—be assured before the Senate proceeds that what they are witnessing is by no means an absolution of Ms. Moseley-Braun. What the American people are witnessing is a successful coverup of serious ethical wrongdoing. I am not going to dwell this afternoon on each of the many serious charges that have been raised, such as the continuing mystery of who really paid for her numerous visits to Nigerian dictator Sani Abacha or where Ms. Moseley-Braun's fiance, Kosie Matthews, got the $47,000 downpayment on the Chicago condo. For the record, Mr. Matthews was also her campaign manager and is now conveniently a missing man. Nobody knows where he is.

Whatever happened to the $249,000 the Federal Election Commission cannot account for her in her campaign? Or who was it exactly who paid for several thousand dollars in airfare, luxury hotel bills, and jewelry purchases during her 1992 trip to Las Vegas or the $10,000 in jewelry she purchased on her 1992 trip to Aspen, CO?

In most cases, the Foreign Relations Committee and its legal officer were unable to get to the bottom of these and other matters because Ms. Moseley-Braun has been hiding behind Mr. Matthews. Mr. Matthews, a South African native, has skipped the country and is nowhere to be found.

My purpose today is not to go through the laundry list of Ms. Moseley-Braun's well-known ethical lapses but, rather, to focus on the Clinton administration's culpability in all of this affair. Ms. Moseley-Braun was suspected of serious tax crime by the Internal Revenue Service following her 1992 campaign. According to a report in the New Republic magazine, she had:

> . . . a $6 million-plus war chest for her general election campaign, only $1 million of which was spent on TV advertising. Moreover, her campaign wound up $544,000 in debt.

Where did this money go? The IRS wanted to find out, but the IRS' efforts to investigate allegations that Moseley-Braun had diverted an estimated $280,000 of those campaign funds for personal use and failed to report it as personal income, those allegations were blocked every step of the way by the Clinton Justice Department.

In 1995, the Clinton Justice Department twice refused routine requests by the IRS Criminal Tax Division to convene a grand jury to investigate the charges against Ms. Moseley-Braun. The IRS had credible evidence that, among other things, she had spent some $70,000 in campaign funds on designer clothes, $25,000 on two jeeps, $18,000 on jewelry, $12,000 on stereo equipment, and some $64,000 on luxury vacations in Europe, Hawaii, and Africa.

Without a grand jury, Government investigators were denied the subpoena power to get at the key documents they had to have to prove their case. The Clinton Justice Department refused repeated requests to convene a grand jury.

Refusing such a request is highly unusual, according to numerous former IRS and Justice Department officials who made clear that the Justice Department's routine in such matters was to impanel grand juries so the IRS could continue gathering evidence. One former official with the Criminal Tax Division of the Justice Department, a Mr. John Bray, called it virtually unheard of to deny such a request. A former head of the Criminal Tax Division, Cono Namorato, commented:

> They [that is to say, the IRS] don't need to show much. . . . By and large, if it is requested, it is approved.

Another described the relationship between the Justice Department and the IRS this way:

> The Justice Department basically sees the IRS as their client, and as their attorney they should do as requested.

But in Moseley-Braun's case, this routine request from the client was denied, not once but twice.

Then the Foreign Relations Committee requested all of the documents from both IRS and the Department of Justice on this matter. Contrary to declarations by Ms. Moseley-Braun, the documents do not absolve her of wrongdoing. What the documents prove is that these serious allegations of ethical misconduct were never properly examined because the investigation was blocked by political appointees at the Justice Department, no doubt on instructions from the White House. Interestingly enough, the official at the Justice Department who made the decision, Loretta Argrett, was a Moseley-Braun supporter who had made a modest contribution to the Moseley-Braun